

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

PHELIPHAЕ COLEMAN

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16cv400-FKB

LT. FRANKS, et al.

DEFENDANTS

OMNIBUS ORDER

Plaintiff, a state prisoner, brought this action pursuant to 42 U.S.C. § 1983 alleging claims arising out of a use of force incident on March 15, 2016. Having considered Plaintiff's testimony at the omnibus hearing, and having conferred with counsel for Defendants, the Court hereby finds and orders as follows.

Plaintiff has filed a motion to amend his complaint to assert a claim concerning an RVR he received in August of 2016. The motion is denied, as this claim does not arise out of the same incident as does his original complaint.

Plaintiff stated at the hearing that his claim against Christopher Evans is unrelated to the March 15, 2016 assault; rather, it concerns an incident in April of 2016 in which Evans allegedly sprayed Plaintiff with mace. Because arises out of an unrelated incident, this claim is hereby dismissed without prejudice.

This cause is set for a bench trial before the undersigned on October 25, 2017, at 9:00 a.m.

Upon motion of Plaintiff, the Court shall secure the presence at trial of up to three witnesses who are incarcerated if the Court concludes that their testimony is relevant.

Plaintiff shall include in his motion the prisoner identification number and correctional

facility in which the witness is housed and shall state in detail the nature of the proposed testimony and how it is relevant to the factual issues of Plaintiff's claim. Any such motion shall be made no later than thirty days prior to trial.

Should any of Plaintiff's witnesses be or become "free world," Plaintiff shall be responsible for securing their voluntary presence at the trial. Should a "free world" witness refuse to appear voluntarily, Plaintiff shall adhere to the following procedure to secure the witness's presence: No later than thirty days prior to trial, Plaintiff shall file a motion with the Court for requesting a subpoena to be issued for the witness. The request shall include the name and address of the witness, and shall be accompanied by the witness fee and expense payment required by Rule 45 of the Federal Rules of Civil Procedure.

Discovery shall be limited to 25 interrogatories, 25 requests for production, and 25 requests for admissions. All discovery shall be completed by May 8, 2017. Any dispositive motions shall be filed by June 8, 2017.

So ordered, this the 8th day of February, 2017.

s/ F. Keith Ball
United States Magistrate Judge